IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HONOURABLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.16984 of 2005

-

-

-

Dated: 2nd August 2005

Between:

Mullaparthi Bangaraiah & others. ..Petitioners

And

The Estate Officer and Additional

Divisional Railway Manager, S.C.Railway,

Vijayawada. .. Respondents

THE HONOURABLE SRI JUSTICE

L.NARASIMHA REDDY

-

ORDER:

The petitioners claim that they have constructed huts in the government porombok land abutting the public road. All of them were said to have been served with notices issued by the 1st respondent under the provisions of the Public Premises Eviction of Unauthorised Occupants Amendment Act, 1980 (for short the Act), treating the land as belonging to the railways. Petitioners claim that they have submitted the explanations to the notices denying the title of the railways. They assert that except in respect of two of the petitioners, no orders have been passed by the 1st respondent under the said Act and coercive steps are being taken to evict them. They seek appropriate directions in this regard.

Smt K. Sesharajyam, learned counsel for the petitioners submits that the petitioners have been in possession of the sites in question since last several years, and that the temporary constructions raised by them were assessed to municipal tax, and that the local authority has extended the public amenities. She contends that the respondents herein cannot take coercive steps contrary to the provisions of the Act.

Sri A. Indra Sena Reddy, learned counsel for the respondents submits that the petitioners have been in unauthorised possession of the land belonging to respondents. He submits that the very fact that notices were issued by the 1st respondent discloses that the respondents wanted to proceed against the petitioners strictly in accordance with law. He contends that the steps are being taken to evict the petitioners from the railway land only after passing the appropriate orders.

The petitioners fairly stated that all of them have been served with notices by the 1st respondent under the Act, and that they in turn have submitted explanations. It is also stated that in two cases the eviction orders have been passed and as regards others no orders of eviction have served yet. Once it is evident that the respondents have initiated proceedings against the petitioners under the Act, the mutual rights and obligations of the parties have to be decided strictly in accordance with the

provisions of that Act. If the 1st respondent has passed orders of eviction under the Act, the aggrieved parties have to avail the remedy before the concerned civil court, by filing an appeal. In such of the cases where the orders have either not been passed or not served on the effected parties, the further steps can be taken, only after passing and service of such orders. Till such time, no action can be taken against the petitioners. Hence, the writ petition is disposed of directing that:

a. *In such of the cases where the 1st respondent passed orders under the Act directing eviction, the aggrieved parties shall have to avail the remedy of appeal provided for under that Act ;*

b. *Where the orders of eviction were passed but not served on the petitioners, the respondents shall not take any proceedings till service of such orders; and*

c. *In cases where the proceedings are still pending, it shall be open to the petitioners to put forward their contentions through explanations, and the 1st respondent in turn shall take the same into account before passing the orders.*

There shall be no order as to costs.

_____

02nd August, 2005

grk

Note: CC tomorrow.

B/o grk